

## **Assembly Bill No. 935**

### **CHAPTER 402**

An act to amend Sections 6403, 22351, and 22452 of the Business and Professions Code, and to amend Sections 1815, 12070, and 12073 of the Insurance Code, relating to public records.

[Approved by Governor October 10, 2007. Filed with  
Secretary of State October 10, 2007.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 935, Committee on Business and Professions. County clerks: preservation of records.

Existing law authorizes a county officer to destroy any nonjudicial documents or records in his or her custody if authorized by a resolution of the board of supervisors and if the records are, prior to destruction, photographed, microphotographed, or otherwise recorded for public use. Existing law requires any papers or documents to be retained by the county clerk for at least one year before they are destroyed, unless another provision of law requires that they be retained longer.

Existing law requires legal document assistants and unlawful detainer assistants to be registered with the county clerk in the county in which their principal place of business is located and in any other county in which they perform acts for which registration is required. Existing law requires process servers and professional photocopiers to be registered with the county clerk of the county in which they reside or have a principal place of business, as specified. Existing law requires the Insurance Commissioner to certify the names of holders of bail licenses to every county clerk of the state and to make up and certify to every county clerk in the state a complete list of all admitted surety insurers.

This bill would, in the case of a legal document assistant, unlawful detainer assistant, process server, or professional photocopier, require the county clerk to retain an application for registration or certificate of registration for a period of 3 years following the expiration date of the application or certificate, after which time the bill would authorize the destruction of the application or certificate if that application or certificate is scanned or if the requirements for the destruction of nonjudicial documents or records are met. The bill would require the retention of the scanned image for a period of 10 years, after which time the bill would authorize the destruction of that image without the making or preservation of a reproduction. The bill would, in the case of the certification of the names of holders of bail licenses and the complete list of admitted surety insurers, require the county clerk to retain these records for a period of 2 years, after which time the bill would

authorize the destruction of these documents without the making or preservation of a reproduction.

Because this bill would impose additional duties on county clerks, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

*The people of the State of California do enact as follows:*

SECTION 1. Section 6403 of the Business and Professions Code is amended to read:

6403. (a) The application for registration of a natural person shall contain all of the following statements about the applicant:

- (1) Name, age, address, and telephone number.
- (2) Whether he or she has been convicted of a felony, or of a misdemeanor under Section 6126 or 6127, or found liable under Section 6126.5.
- (3) Whether he or she has been held liable in a civil action by final judgment or entry of a stipulated judgment, if the action alleged fraud, the use of an untrue or misleading representation, or the use of an unfair, unlawful, or deceptive business practice.
- (4) Whether he or she has ever been convicted of a misdemeanor violation of this chapter.
- (5) Whether he or she has had a civil judgment entered against him or her in an action arising out of the applicant's negligent, reckless, or willful failure to properly perform his or her obligation as a legal document assistant or unlawful detainer assistant.
- (6) Whether he or she has had a registration revoked pursuant to Section 6413.
- (7) Whether this is a primary or secondary registration. If it is a secondary registration, the county in which the primary registration is filed.

(b) The application for registration of a natural person shall be accompanied by the display of personal identification, such as a California driver's license, birth certificate, or other identification acceptable to the county clerk to adequately determine the identity of the applicant.

(c) The application for registration of a partnership or corporation shall contain all of the following statements about the applicant:

- (1) The names, ages, addresses, and telephone numbers of the general partners or officers.
- (2) Whether the general partners or officers have ever been convicted of a felony, or a misdemeanor under Section 6126 or 6127, or found liable under Section 6126.5.

(3) Whether the general partners or officers have ever been held liable in a civil action by final judgment or entry of a stipulated judgment, if the action alleged fraud, the use of an untrue or misleading representation, or the use of an unfair, unlawful, or deceptive business practice.

(4) Whether the general partners or officers have ever been convicted of a misdemeanor violation of this chapter.

(5) Whether the general partners or officers have had a civil judgment entered against them in an action arising out of a negligent, reckless, or willful failure to properly perform the obligations of a legal document assistant or unlawful detainer assistant.

(6) Whether the general partners or officers have ever had a registration revoked pursuant to Section 6413.

(7) Whether this is a primary or secondary registration. If it is a secondary registration, the county in which the primary registration is filed.

(d) The applications made under this section shall be made under penalty of perjury.

(e) The county clerk shall retain the application for registration for a period of three years following the expiration date of the application, after which time the application may be destroyed if it is scanned or if the conditions specified in Section 26205.1 of the Government Code are met. If the application is scanned, the scanned image shall be retained for a period of 10 years, after which time that image may be destroyed and, notwithstanding Section 26205.1 of the Government Code, no reproduction thereof need be made or preserved.

SEC. 2. Section 22351 of the Business and Professions Code is amended to read:

22351. (a) The certificate of registration of a registrant who is a natural person shall contain the following:

(1) The name, age, address, and telephone number of the registrant.

(2) A statement, signed by the registrant under penalty of perjury, that the registrant has not been convicted of a felony, or, if the registrant has been convicted of a felony, a copy of a certificate of rehabilitation, expungement, or pardon.

(3) A statement that the registrant has been a resident of this state for a period of one year immediately preceding the filing of the certificate.

(4) A statement that the registrant will perform his or her duties as a process server in compliance with the provisions of law governing the service of process in this state.

(b) The certificate of registration of a registrant who is a partnership or corporation shall contain the following:

(1) The names, ages, addresses, and telephone numbers of the general partners or officers.

(2) A statement, signed by the general partners or officers under penalty of perjury, that the general partners or officers have not been convicted of a felony.

(3) A statement that the partnership or corporation has been organized and existing continuously for a period of one year immediately preceding

the filing of the certificate or a responsible managing employee, partner, or officer has been previously registered under this chapter.

(4) A statement that the partnership or corporation will perform its duties as a process server in compliance with the provisions of law governing the service of process in this state.

(c) The county clerk shall retain the certificate of registration for a period of three years following the expiration date of the certificate, after which time the certificate may be destroyed if it is scanned or if the conditions specified in Section 26205.1 of the Government Code are met. If the certificate is scanned, the scanned image shall be retained for a period of 10 years, after which time that image may be destroyed and, notwithstanding Section 26205.1 of the Government Code, no reproduction thereof need be made or preserved.

SEC. 3. Section 22452 of the Business and Professions Code is amended to read:

22452. (a) The application for registration of a natural person shall contain all of the following statements about the applicant:

- (1) Name, age, address, and telephone number.
- (2) He or she has not been convicted of a felony.
- (3) He or she will perform his or her duties as a professional photocopier in compliance with the provisions of law governing the transmittal of confidential documentary information in this state.

(b) The application for registration of a partnership or corporation shall contain all of the following statements about the applicant:

- (1) The names, ages, addresses, and telephone numbers of the general partners or officers.
- (2) The general partners or officers have not been convicted of a felony.
- (3) The partnership or corporation will perform its duties as a professional photocopier in compliance with the provisions of law governing the transmittal of confidential documentary information in this state.

(c) The county clerk shall retain the application for registration for a period of three years following the expiration date of the application, after which time the application may be destroyed if it is scanned or if the conditions specified in Section 26205.1 of the Government Code are met. If the application is scanned, the scanned image shall be retained for a period of 10 years, after which time that image may be destroyed and, notwithstanding Section 26205.1 of the Government Code, no reproduction thereof need be made or preserved.

SEC. 4. Section 1815 of the Insurance Code is amended to read:

1815. (a) The commissioner shall certify the names of holders of bail agents' and bail permittees' licenses and their solicitors to every county clerk of the state, together with their license numbers and any other information in respect to the persons as he or she considers advisable. He or she shall promptly upon termination, for any cause, of any license, notify the respective county clerks.

(b) The county clerk shall retain these records for a period of two years, after which time the active bail licensee list and updates may be destroyed

and, notwithstanding Section 26205.1 of the Government Code, no reproduction thereof need be made or preserved.

SEC. 5. Section 12070 of the Insurance Code is amended to read:

12070. (a) The commissioner shall make up and certify to the county clerk of each county of the state a complete list of all admitted surety insurers. The list shall set forth all of the following:

- (1) The full corporate name of the insurer.
- (2) The name of the state or country under whose laws the insurer is organized.
- (3) The date of the certificate of authority issued to the insurer to transact surety insurance in this state.

(b) The county clerk shall retain these records for a period of two years, after which time the complete list of all admitted surety insurers and updates may be destroyed and, notwithstanding Section 26205.1 of the Government Code, no reproduction thereof need be made or preserved.

SEC. 6. Section 12073 of the Insurance Code is amended to read:

12073. The county clerk shall keep an index or other conveniently arranged record that shall show all admitted surety insurers as certified to him or her by the insurance commissioner and any further information as to those surety insurers as may be certified to the county clerk by the commissioner. The county clerk shall retain these indexes or other conveniently arranged records for a period of two years, after which time the index or records may be destroyed and, notwithstanding Section 26205.1 of the Government Code, no reproduction thereof need be made or preserved.

SEC. 7. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.